

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF PUERTO RICO**

UNITED STATES OF AMERICA,

Plaintiff,

v.

CRIMINAL NO. 22-004 (ADC)

[2] EMILIO PINALES,

Defendant.

**MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION**  
**RE: RULE 11 GUILTY PLEA HEARING**

**I. Procedural Background:**

On January 4, 2022, defendant Emilio Pinales, was charged in a two-count indictment. (Docket No. 13). He agreed to plead guilty to both counts in the indictment pursuant to a straight plea.

Count One charges that beginning on a date unknown, and continuing up to and including December 22, 2021, on the high seas, elsewhere and within the jurisdiction of this Court, Mr. Pinales and his co-defendant, did knowingly and intentionally combine, conspire, confederate and agree with each other and with diverse persons, to knowingly and intentionally possess with intent to distribute five (5) kilograms or more of a mixture or substance containing a detectable amount of cocaine, a Schedule II Narcotic Drug Controlled substance aboard a vessel subject to the jurisdiction of the United States. All in violation of Title 46, *United States Code*, Sections 70503(a)(1) and 70506(b), and Title 21, *United States Code*, Section 960(b)(1)(B).

Count Two charges that on or about December 22, 2021, on the high seas, elsewhere and within the jurisdiction of this Court, Mr. Pinales and his co-defendant, aiding and abetting each other and other persons, did knowingly and intentionally possesses with intent to distribute five (5) kilograms or more of a mixture or substance containing a detectable amount of cocaine, a Schedule II Narcotic Drug Controlled substance, aboard a vessel subject to the jurisdiction of the United States. All in violation of Title 46, *United States Code*, Section 70503(a)(1), Title 21, *United States Code*, Section 960(b)(1)(B), and Title 18, *United States Code*, Section 2.

Defendant appeared before me, assisted by the court interpreter, on March 18, 2025, after the Rule 11 hearing was referred to me by the Presiding District Judge. *See United States v. Woodard*, 387 F.3d 1329 (11th Cir. 2004) (magistrate judge had authority to conduct Rule 11 guilty plea hearing with consent of defendant). He was advised of the purpose of the hearing and placed under oath with instructions that his answers must be truthful lest he subject himself to possible charges of perjury or making a false statement.

## **II. Consent to Proceed Before a Magistrate Judge:**

Defendant was provided with a Waiver of Right to Trial by Jury form, which he signed.<sup>1</sup> He was advised of his right to hold all proceedings, including the change of plea hearing, before a district court judge. He received an explanation of the differences

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<sup>1</sup> The form entitled Consent to Proceed Before a United States Magistrate Judge in a Felony Case for Pleading Guilty (Fed. R. Crim. P. 11) and Waiver of Jury Trial, signed and consented by both parties is made part of the record.

1 between the scope of jurisdiction and functions of a district judge and a magistrate judge.  
2 He was informed that if he elected to proceed before me, a magistrate judge, that I would  
3 conduct the hearing and prepare a report and recommendation, subject to review and  
4 approval of the District Judge. The defendant then voluntarily consented to proceed  
5 before me.  
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### 7 **III. Proceedings Under Rule 11 of the Federal Rules of Criminal** 8 **Procedure:**

9 Rule 11 of the Federal Rules of Criminal Procedure governs the acceptance of  
10 guilty pleas to federal criminal violations. Pursuant to Rule 11, in order for a plea of guilty  
11 to constitute a valid waiver of the defendant's right to trial, the guilty plea must be  
12 knowing and voluntary. *United States v. Hernandez-Wilson*, 186 F.3d 1, 5 (1st Cir. 1999).  
13 "Rule 11 was intended to ensure that a defendant who pleads guilty does so with an  
14 'understanding of the nature of the charge and consequences of his plea.'" *United States*  
15 *v. Cotal-Crespo*, 47 F.3d 1, 4 (1st Cir. 1995) (quoting *McCarthy v. United States*, 394 U.S.  
16 459, 467 (1969)). There are three core concerns in a Rule 11 proceeding: 1) absence of  
17 coercion; 2) understanding of the charges; and 3) knowledge of the consequences of the  
18 guilty plea. *Cotal-Crespo*, 47 F.3d at 4 (citing *United States v. Allard*, 926 F.2d 1237,  
19 1244 (1st Cir. 1991)).  
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#### 22 **A. Competence to Enter a Guilty Plea**

23 I questioned the defendant about his age, education, employment, history of any  
24 treatment for mental illness or addiction, use of any medication, drugs, or alcohol, and  
25 his understanding of the purpose of the hearing, all in order to ascertain his capacity to  
26 understand, answer and comprehend the change of plea colloquy. I confirmed that the  
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1 defendant received the indictment and fully discussed the charges with his attorney and  
2 was satisfied with the advice and representation he received. In addition, I further  
3 inquired whether defendant's counsel or counsel for the government had any doubt as to  
4 his competency to plead, receiving answers from both that the defendant was competent  
5 to enter a plea. After considering the defendant's responses, and observing his demeanor,  
6 a finding was made that Mr. Pinales was competent to plead and fully aware of the  
7 purpose of the hearing.  
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10 **B. Maximum Penalties**

11 Upon questioning, the defendant expressed his understanding of the maximum  
12 penalties prescribed by statute for the offenses to which he was pleading guilty, namely:  
13 a term of imprisonment of not less than ten (10) years and up to life, a fine not to exceed  
14 ten million dollars (\$10,000,000.00), and a supervised release term of at least five (5)  
15 years in addition to any term of incarceration.

16 The defendant also understood that a Special Monetary Assessment of \$100.00  
17 would be imposed as to each count, to be deposited in the Crime Victim Fund, pursuant  
18 to Title 18, United States Code, Section 3013(a). The court explained the nature of  
19 supervised release and the consequences of revocation. The defendant indicated that he  
20 understood the maximum penalties for Counts One and Two and the potential  
21 consequences of the guilty plea.  
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23 **C. Sentencing Procedure**

24 The defendant was specifically informed that the court, after considering the  
25 applicable Sentencing Guidelines, could impose a sentence different from any estimate  
26 provided by his attorney, and that the court had the authority to impose a sentence that  
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1 is more severe or less severe than the sentence called for by the Sentencing Guidelines.  
2 The defendant was advised, and understood, that the Sentencing Guidelines are not  
3 mandatory and are thus considered advisory, and that during sentencing the court will  
4 consider the sentencing criteria found at Title 18, United States Code, Section 3553(a).  
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6 **D. Waiver of Constitutional Rights**

7 Mr. Pinales was specifically advised that he has the right to persist in a plea of not  
8 guilty, and if he does so persist that he has the right to a speedy and public trial by jury,  
9 or trial before a judge sitting without a jury if the court and the government so agree;  
10 that at trial he would be presumed innocent and the government would have to prove his  
11 guilt beyond a reasonable doubt; that he would have the right to the assistance of counsel  
12 for his defense, and if he could not afford an attorney the court would appoint one to  
13 represent him throughout all stages of the proceedings; that at trial he would have the  
14 right to hear and cross examine the government's witnesses, the right to decline to testify  
15 unless he voluntarily elected to do so, and the right to the issuance of subpoenas or  
16 compulsory process to compel the attendance of witnesses to testify. He was further  
17 informed that if he decided not to testify or put on evidence at trial, the failure to do so  
18 could not be used against him, and that at trial the jury must return a unanimous verdict  
19 before he could be found guilty or not guilty.  
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22 The defendant specifically acknowledged understanding these rights and  
23 understanding that by entering a plea of guilty there would be no trial and he will be  
24 waiving or giving up the rights I explained.  
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26 The defendant was informed that parole has been abolished and that any sentence  
27 of imprisonment must be served, and that his guilty plea may result in loss of important  
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1 civil rights, such as the right to vote, to hold public office, to serve on a jury, and to  
2 possess a firearm. The defendant confirmed that he understood these consequences of  
3 the guilty plea.

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5 **E. Factual Basis for the Guilty Plea**

6 Defendant was read in open court Counts One and Two of the indictment and  
7 provided an explanation of the elements of the offense. The meaning of terms used in the  
8 indictment was explained. Further, upon questioning, the defendant admitted to the  
9 essential elements of the offense charged in Counts One and Two after hearing and  
10 understanding a summary of the evidence the government had available to establish, in  
11 the event defendant elected to go to trial, his guilt beyond a reasonable doubt.

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13 **F. Voluntariness**

14 The defendant indicated that he was not being forced to plead guilty but was  
15 entering such a plea freely and voluntarily because in fact he is guilty, and that no one  
16 had threatened him or offered a thing of value in exchange for his plea. He acknowledged  
17 that no one had made any different or other promises in exchange for his guilty plea.  
18 Throughout the hearing the defendant was able to consult with his attorney.

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20 **IV. Conclusion:**

21 The defendant, by consent, appeared before me pursuant to Rule 11 of the Federal  
22 Rules of Criminal Procedure, and entered a plea of guilty as to Counts One and Two of  
23 the indictment. After cautioning and examining the defendant under oath and in open  
24 court concerning each of the subject matters mentioned in Rule 11, I find that the  
25 defendant, Emilio Pinales is competent to enter this guilty plea, is aware of the nature of  
26 the offense charged and the maximum statutory penalties that it carries, understands  
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1 that the charge is supported by evidence and a basis in fact, has admitted to the elements  
2 of the offense, and has done so in an intelligent and voluntary manner with full  
3 knowledge of the consequences of his guilty plea. Therefore, I recommend that the court  
4 accept the guilty plea and that the defendant be adjudged guilty as to Counts One and  
5 Two of the indictment.  
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7 This report and recommendation is filed pursuant to 28 U.S.C. § 636(b)(1)(B) and  
8 Rule 72(d) of the Local Rules of this Court. Any objections to the same must be specific  
9 and must be filed with the Clerk of Court **within 14 days**. Failure to file timely and  
10 specific objections to the report and recommendation is a waiver of the right to appellate  
11 review. *See Thomas v. Arn*, 474 U.S. 140, 155 (1985); *Davet v. Maccorone*, 973 F.2d 22,  
12 30–31 (1st Cir. 1992); *Paterson-Leitch Co. v. Mass. Mun. Wholesale Elec. Co.*, 840 F.2d  
13 985 (1st Cir. 1988); *Borden v. Sec’y of Health & Human Servs.*, 836 F.2d 4, 6 (1st Cir.  
14 1987).  
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16 **IT IS SO RECOMMENDED.**

17 In San Juan, Puerto Rico this 18th day of March, 2024.  
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19 S/Héctor L. Ramos-Vega  
20 HÉCTOR L. RAMOS-VEGA  
21 UNITED STATES MAGISTRATE JUDGE  
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